

From: Scott Russell
To: Microsoft ATR
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Subject: Microsoft Settlement

Scott Russell
Orr's Island, ME

Judge Colleen Kollar-Kotelly, and The Department of Justice

I am an American citizen with over 17 years of experience in software development.

The current Microsoft settlement is inadequate to improve the competitive environment in the software industry. Microsoft holds and has enforced a monopoly on the desktop computer market, and this settlement does not provide sufficient penalty for these misdeeds.

Microsoft has failed to abide by the spirit of previous agreements. Providing an oversight committee, but no provision for the ability to penalize Microsoft represents a weak settlement - one that does not protect the consumer or the non-monopolists in this market. This settlement provides inroads for Microsoft to continue to undermine both the software industry in general, and the Free Software movement in particular.

In the past, Microsoft has been found to mislead its customers and vendors, the public, and the courts. Logically, we should consider that it may continue to do so now, and will probably do so again the future.

Marketing statements notwithstanding, innovation does not come from forcing a stranglehold on the citizens of the world. It emerges from the free exchange of ideas among organizations as peers. There is nothing wrong with pure competition or free capitalism, and I support both. Imposing operating constraints on an organization should only come into affect when the organization steps outside of the standards of Society and Law. The global community, and Americans in particular, expect a degree of ethical behavior on the part of corporations - The Sherman Act was created to provide recourse to address those situations in which an entity steps outside of the boundaries of acceptable behavior.

Microsoft has crossed this well-defined line, and should suffer a tangible penalty for past misdeeds, the disastrous effects of which are ongoing, and will continue for years. A mechanism for preventing and penalizing attempts at future misdeeds must also be part of this remedy.

One who violates the law should not be allowed to keep his ill-gotten gains. The court has found that Microsoft has engaged in activity that is in violation of civil law, by maintaining and extending an illegal monopoly. Microsoft committed these illegal acts with the successful intention of

taking money from consumers, competitors, and vendors. The current settlement allows them to keep these gains, which would be measured in billions of dollars. Some solid process must be put into place to ensure that this money, if not returned to those it was taken from, will be used to recover from the damage caused by the illegal actions of this monopolist.

Negative impacts upon the economy and technology innovation should not be a reason to prevent a harsh judgment in this case. The impact of a tumble in Microsoft's stock price on the world economy will be offset by the rise of independent software vendors, once they are free of the tyranny of a sitting monopolist. Technology will become more valuable, stable, and secure as more worthy organizations begin to set the pace for this field. Allowing a single organization to have such a strong hand in the survival of a market, and the nation's economy in general must be stopped. It's a simple fact - the tech industry would do better and recover faster without Microsoft controlling its interests. Applying reimbursement and punitive damages to Microsoft serves the national interest - not doing so serves only Microsoft's interests.

I wish to give a few guidelines to help define what would constitute a fair remedy:

Prevention of Recurrence - Microsoft must not be allowed to continue to abuse or enforce its monopoly.

Reimbursement - Microsoft must not be allowed to retain the profits it has earned as a result of its illegal actions.

Reparations - Microsoft is responsible for the current uncompetitive market in operating systems and related applications. The should be forced to underwrite efforts to restore competition and consumer choice.

Damages - Microsoft must pay punitive damages over and above its reimbursement and reparative obligations, both as punishment for wrongdoing, and to deter future monopolists.

The existing settlement serves to grant Microsoft it's monopoly, and will cause additional damage to many, many industries. It will also ensure that there will be more cases of United States Vs Microsoft in the future, costing more money to taxpayers.

Thank you for your time,

Scott Russell